

**ZONING BOARD OF APPEALS**

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web: [www.wellesleyma.gov](http://www.wellesleyma.gov)J. RANDOLPH BECKER, VICE CHAIRMAN  
ROBERT W. LEVY  
DAVID L. GRISSINOZBA 2011-74  
Petition of Patrick Ahearn  
45 Lowell Road

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Record Owner of Property: Joseph & Cori Mullany

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, December 1, 2011, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of PATRICK AHEARN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a one and one-half story three car garage with a one-story connector to the main house, with a footprint of 916 square feet, on an existing nonconforming structure with less than required side yard setbacks, at 45 LOWELL ROAD, in a 20,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On November 14, 2011 the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Patrick Ahearn. He said that the 1930 Royal Barry Wills house is located on a 34,886 square foot lot with a side yard setback on the northeast property line of 13.08 feet. He said that the structure meets the setback requirements on the other remaining sides of the property. He said that the proposal is to add a one and one-half story three-car garage with a one-story connector back to the main body of the house. He said that, as designed, the proposed addition would meet the required 30 foot front and 20 foot side yard setbacks. He said that the proposed addition also meets the requirements for lot coverage at 3,708 square feet, or 10 percent. He said that the proposed new additions will generate a Total Living Area plus Garage (TLAG) of 5,620 square feet, which is below the threshold of 5,900 square feet for Large House Review (LHR) for the district. He said that, based on the fact that the new addition to the pre-existing nonconforming structure meets all of the Zoning requirements, the proposed addition would not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use of the neighborhood.

The Board said that on the north corner where the adjacent property protrudes, there seems to be a grade change and a six foot fence there. Mr. Ahearn said that at some point in time, he believes, a piece of the lot might have been part of the other lot.

Mr. Ahearn said that the dotted lines on the plot plan represent the required setbacks. He said that the proposed addition will meet all of the setback requirements. He said that it is the corner of the existing garage that is closer than 20 feet to the side lot line. He said that it is an odd shaped lot.

Mr. Ahearn said that they will be using the existing structure to change the garage into a family room.

The Board said that it appears that the circulation into the parking court from Lowell Road would make it difficult to get into the garage. The Board said that access to the parking court may have to be moved east to allow the turning radius. Mr. Ahearn said that there is enough land to move the parking court. He said that there will be landscaped screening around the parking court. He said that the garage doors will not face the streetscape. He said that creating the parking court will allow for a basketball court, lawn toys and an SUV not in the public realm.

The Board said that the width of the parking court is 26 feet. The Board said that the turning radius for a side facing garage is required to be 30 feet from the side lot line. Mr. Ahearn said that he could expand the parking court to the east and have it meet the 20 foot setback. He said that they purposely extended the parking court asphalt so that kids could play basketball even when a car was coming in or out of the garage. He said that they could move the basketball court to the backyard.

The Board said that on the illustrative site plan, a 13.08 dimension is shown for the side yard setback. The Board said that dimension is not shown on the survey. Mr. Ahearn said that the surveyor had given them the 13.08 dimension.

There was no one present at the Public Hearing who wished to speak to the petition.

#### Statement of Facts

The subject property is located at 45 Lowell Road, on a 34,886 square foot lot in a 20,000 square foot Single Residence District, with a minimum right side yard setback of 13.08 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a one and one-half story three car garage with a one-story connector to the main house, with a footprint of 916 square feet, on an existing nonconforming structure with less than required side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 10/27/11, stamped by Daniel J. Tivnan, Professional Land Surveyor, existing and proposed Floor Plans and Elevation Drawings, dated 12/1/11, and photographs were submitted.

On November 28, 2011, the Planning Board reviewed the petition and recommended that the Special Permit be granted with a condition.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that construction of a one and one-half story three car garage with a one-story connector to the main house, with a footprint of 916 square feet, on an existing nonconforming structure with less than required side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of a one and one-half story three car garage with a one-story connector to the main house, with a footprint of 916 square feet, in accordance with the submitted plot plan and construction drawings.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

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J. Randolph Becker, Acting Chairman

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Robert W. Levy

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David G. Sheffield

cc: Planning Board  
Inspector of Buildings  
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